

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

SCRUB DADDY, INC.,)
)
Plaintiff,)
)
v.) No.: 3:14-CV-55-TAV-HBG
)
DEBRA CIKOVIC, d/b/a)
Belleza Jewelry,)
Defendant.)

FINAL ORDER OF JUDGMENT

On August 8, 2014, the Court issued a Memorandum Opinion & Order granting Plaintiff's Motion for Default Judgment. The Court found that Plaintiff is the owner of U.S. Design Patent No. D 690,892 for the design of a dishwashing sponge in the shape of a sun with a face cut into the middle of the sponge and is the owner of the registered trademark SCRUB DADDY. In addition, the Court found that Plaintiff is the owner of the unregistered trademark FLEXTEXTURE. The Court further found that Defendant's sale and distribution of sponges under the label SMILE DADDY infringed Plaintiff's federal patent and trademark rights and violated rights under the Tennessee Consumer Protection Act and under the common law of unfair competition. The Court found that Plaintiff was entitled to injunctive relief and an appropriate award of attorney fees and costs.

IT IS on this 26th day of August 2014 **ORDERED, ADJUDGED AND DECREED** that:

1. Defendant, Debra Cikovic, and her employees, agents, representatives and all those who act in concert or participation with her who receive notice hereof are hereby permanently ENJOINED and RESTRAINED from:

- a. Selling or offering for sale or distributing sponges that have an appearance similar to that shown in U.S. Design Patent No. D 690,892 or otherwise infringing the patent.
- b. Selling or offering for sale or distribute sponges under the name SMILE DADDY or any other name that is substantially similar to SCRUB DADDY.
- c. Selling or offering for sale or distributing sponges that include the term FLEXTEXTURE thereon or on packaging or advertisements therefor.

2. Based upon the declarations of Plaintiff's attorneys attached as Exhibits 1 and 2, Defendant, Debra Cikovic, shall reimburse Plaintiff for its attorney's fees in the amount of \$10,100 and costs in the amount of \$485.20.

3. Judgment is hereby entered in favor of Plaintiff, Scrub Daddy, Inc., and against Defendant, Debra Cikovic, in the amount of \$10,585.20.

ENTER:

s/ Thomas A. Varlan
CHIEF UNITED STATES DISTRICT JUDGE

ENTERED AS A JUDGMENT
s/ Debra C. Poplin
CLERK OF COURT

EXHIBIT 1

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

SCRUB DADDY, INC.,)
)
)
Plaintiff,)
)
)
v.) No.: 3:14-CV-55-TAV-HBG
)
)
DEBRA CIKOVIC, d/b/a)
Belleza Jewelry,)
Defendant.)

DECLARATION OF AUTUMN L. GENTRY

I, Autumn L. Gentry, declare under penalty of perjury that the following facts are true and correct, and based upon my own personal knowledge:

1. I am over the age of 18 and competent to testify to the matters herein.
2. I am a Member of the law firm of Dickinson Wright PLLC. I am licensed to practice law in the State of Tennessee. I am admitted to practice in various courts in Tennessee, including without limitation the United States District Court for the Eastern District of Tennessee.
3. I was hired by Plaintiff and its attorney Norman E. Lehrer to serve as local counsel for Plaintiff in the above-captioned case.
4. This declaration is submitted in support of Plaintiff's proposed order of final judgment as ordered by the Court on August 8, 2014. [See Doc. 15.]

5. As of August 13, 2014, Plaintiff has incurred through Dickinson Wright PLLC¹ \$3,459.20 in attorney fees and expenses in connection with pursuing the above captioned case in this matter. These fees and expenses are necessary and reasonable given the nature of Plaintiff's claim.

6. Of this total amount of fees and expenses, \$3,380 constitutes attorney fees incurred by Plaintiff in this matter as of August 13, 2014. The attorney fees are comprised of 10.4 hours of attorney time at a rate of \$325.00 per hour. A copy of the time entries I generated in this case is attached.

7. The remaining amount of \$79.20 constitutes expenses incurred by Plaintiff in this matter as of August 13, 2014, for service of the Summons and Complaint on Defendant, and for long distance telephone charges. A copy of these costs is attached.

I declare under penalty of perjury that the foregoing is true and correct.



AUTUMN L. GENTRY

Dated: August 21, 2014

¹ Plaintiff is also represented in this matter by Attorney Norman E. Lehrer, whose declaration for fees and costs is attached as Exhibit 2 to Plaintiff's proposed order of final judgment.

Time Entry Report

Name	GENTRY, AUTUMN L.			Report Date	8/13/2014		
Number	1401			Report Period	2/1/2014 to 8/13/2014		
Date Worked	Index	Client-Matter Number	Client Name	Worked Hours	Work Loc	Task	Act Code
2/10/2014	10730452	058257-00001	SCRUB DADDY, INC.	1.90	24	1	B
review of drafted Complaint and exhibits from Norman Lehrer (.5); preparation & drafting of edits to same (.3); preparation & drafting of Summons (.2); preparation & drafting of Civil Cover Sheet (.2); preparation & drafting of Corporate Disclosure Statement (.3); preparation & drafting of Patent report (.2); preparation & drafting of Trademark report (.2).							
2/11/2014	10730965	058257-00001	SCRUB DADDY, INC.	0.20	24	1	B
receipt & attention to issued Summons (.1); preparation & drafting of email correspondence to Norman Lehrer regarding service (.1).							
2/14/2014	10738110	058257-00001	SCRUB DADDY, INC.	0.20	24	1	B
Forwarded Complaint and Summons for service of process.							
2/20/2014	10749355	058257-00001	SCRUB DADDY, INC.	0.20	24	1	B
email to Norman Lehrer and Aaron Krause with proof of service (.1); email to Norman Lehrer regarding payment for process server (.1).							
2/25/2014	10758878	058257-00001	SCRUB DADDY, INC.	0.60	24	1	B
telephone call from Defendant regarding service of Complaint and infringing product (.3); email exchange with Norman Lehrer regarding same (.3).							
3/4/2014	10786906	058257-00001	SCRUB DADDY, INC.	0.10	24	1	B
receipt & attention to correspondence from Norman Lehrer to Defendant.							
3/14/2014	10810324	058257-00001	SCRUB DADDY, INC.	0.40	24	2	B
review of local rules of court for filing motion for default.							
3/17/2014	10812373	058257-00001	SCRUB DADDY, INC.	1.70	24	2	B
preparation & drafting of Request for Entry of Default (.8); preparation & drafting of Affidavit of Plaintiff's Counsel In Support Of Motion (.6); email exchange with Norman Lehrer regarding same (.3).							
3/18/2014	10815233	058257-00001	SCRUB DADDY, INC.	0.40	24	2	B
preparation & drafting of proposed Entry of Default (.3); email correspondence to Norman Lehrer with Request for Entry of Default and supporting Affidavit (.1).							
3/20/2014	10818613	058257-00001	SCRUB DADDY, INC.	0.70	24	2	B
telephone calls to/from Debra Cikovic regarding Request for Default (.3); exchange with Norman Lehrer regarding same (.4).							
4/9/2014	10873664	058257-00001	SCRUB DADDY, INC.	0.20	24	2	B
receipt & attention to Clerk's Entry of Default (.1); preparation & drafting of email correspondence to Norman Lehrer regarding same (.1).							
5/29/2014	10995818	058257-00001	SCRUB DADDY, INC.	0.10	24	2	B
preparation & drafting of email to Norman Lehrer regarding status of motion for default judgment.							
6/12/2014	11084333	058257-00001	SCRUB DADDY, INC.	0.40	24	2	B
receipt & attention to Court's Order to Show Cause regarding deadline to file motion for default judgment (.2); email exchange with opposing counsel regarding same (.2).							
6/30/2014	11081711	058257-00001	SCRUB DADDY, INC.	0.80	24	2	B

receipt & attention to drafted brief in support of motion for default judgment (.2); telephone call to Norman Lehrer regarding same (.1); preparation & drafting of revisions to same (.5).									
7/1/2014	<u>11084543</u>	058257-00001	[REDACTED]	SCRUB DADDY, INC.	1.50	24	2	B	7/28/201
preparation & drafting of motion for default judgment (.8); preparation & drafting of revisions to brief in support of default judgment (.7).									
8/8/2014	<u>11185321</u>	058257-00001	[REDACTED]	SCRUB DADDY, INC.	0.30	24	2	B	8/13/201
receipt & attention to Order granting Motion for Default Judgment and ordering plaintiff to submit a proposed final order of judgment regarding its request for Injunctive relief, costs, and attorney's fees (.2); preparation & drafting of email correspondence to Norman Lehrer regarding same (.1).									
8/13/2014	<u>11193726</u>	058257-00001	[REDACTED]	SCRUB DADDY, INC.	0.70	24	2	B	8/13/201
preparation & drafting of edits to proposed order of final judgment; preparation & drafting of declaration for attorney's fees and costs in support of proposed order of final judgment.									
Final Total					10.40				

Date	Initials	Name / Invoice Number	Code	Quantity	Rate	Amount	Description	Cost Index	Image
02/10/2014	1410	JENNIFER M. COUNCIL	76	1.00	0.42	0.42	TELEPHONE 1747 18564294100	8336657	
03/11/2014		Invoice=913368		1.00	0.42	0.42			
02/10/2014	1410	JENNIFER M. COUNCIL	76	1.00	2.10	2.10	TELEPHONE 1747 18655454228	8336659	
03/11/2014		Invoice=913368		1.00	2.10	2.10			
02/13/2014	1401	AUTUMN L. GENTRY	75	1.00	0.42	0.42	TELEPHONE 1755 18655442010	8338803	
03/11/2014		Invoice=913368		1.00	0.42	0.42			
02/20/2014	1401	AUTUMN L. GENTRY	70	1.00	76.00	76.00	PROCESS,WITNESS FEES	8347078	
03/11/2014		Invoice=913368		1.00	76.00	76.00	PROCESS SERVER FEE FOR SERVICE ON DEBRA CIKOVIC		
		Voucher=665411 Paid					Vendor=MICHAEL ROGERS Balance=.00 Amount= 76.00		
							Check #209947 03/21/2014		
02/20/2014	1401	AUTUMN L. GENTRY	70	1.00	-76.00	-76.00	Reversal from Void Check Number: 299441	8376098	
04/08/2014		Invoice=918243		1.00	-76.00	-75.00	Bank ID: GENERAL Voucher ID: 665411		
		Voucher=668283 Pa'd					Vendor: MICHAEL ROGERS		
							Vendor=MICHAEL ROGERS Balance=.00 Amount=-75.00		
							Check #209947 03/21/2014		
03/20/2014	1401	AUTUMN L. GENTRY	70	1.00	75.00	75.00	PROCESS,WITNESS FEES	8376718	Y
04/08/2014		Invoice=918243		1.00	75.00	75.00	SERVICE ON DEFENDANT		
		Voucher=668627 Paid					Vendor=MICHAEL ROGERS Balance=.00 Amount= 75.00		
							Check #2756 03/20/2014		
06/30/2014	1401	AUTUMN L. GENTRY	75	1.00	1.28	1.28	TELEPHONE 1755 18096343008	8546086	
07/22/2014		Invoice=939839		1.00	1.28	1.28			
		BILLED TOTALS: WORK:				79.20	/ records		
		BILLED TOTALS: BILL:				79.20			
		GRAND TOTAL: WORK:				79.20	/ records		
		GRAND TOTAL: BILL:				79.20			

EXHIBIT 2

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
NORTHERN DIVISION

SCRUB DADDY, INC.,	:	
	Plaintiff,	Civ. Action No. 3:14-cv-00055
	v.	Varlan/Guyton
DEBRA CIKOVIC, d/b/a Belleza Jewelry,	:	DECLARATION OF NORMAN E. LEHRER
	Defendant.	

I, Norman E. Lehrer, declare that:

1. I am counsel to Plaintiff in the above-captioned matter.
2. I have been a member of the bar of the State of New Jersey and of the bars of the United States District Court for New Jersey, the Courts of Appeals for the Second and Third and Federal Circuits and the United States Supreme Court for almost forty years. I am also licensed to practice before the United States Patent and Trademark Office.
3. My practice has always been limited to patents, trademarks, copyrights and related intellectual property law.
4. I have represented Plaintiff and Plaintiff's principals for more than twenty years and am the attorney who assisted Plaintiff in securing its patent and trademark rights that were at issue in the case at bar.
5. I maintain contemporaneous records on a daily basis for all time and expenses incurred on behalf of all of our clients for whom I represent in connection with litigation matters.

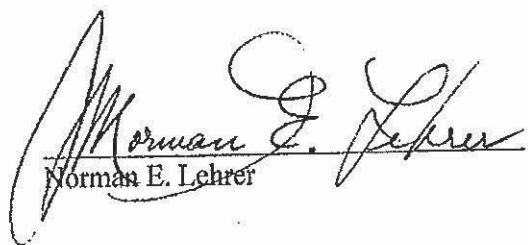
6. My time records are entered into our Timeslips billing program by my bookkeeper and bills are generated on a monthly basis for each of our clients.

7. Attached hereto are copies of my redacted monthly Timeslips bills to the Plaintiff in this matter from February 1, 2014 to the present. All of the time and expenses set forth in these bills relate directly to this litigation.

8. The total amount of time expended in connection with this litigation was 19.2 hours. My standard hourly rate and the rate agreed to be paid by the Plaintiff in this matter is \$350 which is substantially below the rate charged by other attorneys in our community. I billed Plaintiff \$6,720 for my time in this matter.

9. In addition, our costs, billed to our client relating to this matter, were \$400 for the court filing fee and \$6 for exhibit copies filed with the complaint. Thus, the total amount billed to the Plaintiff by my office relating to this matter to date is \$7,126.

I declare under penalty of perjury that the foregoing is true and correct.



Norman E. Lehrer

Dated: August 11, 2014

Law Offices
NORMAN E. LEHRER, P.C.
1205 Kings Highway North, Cherry Hill, NJ 08034-1982
Telephone: 856.429.4100 Fax: 856.429.8819
Email: patents@pobox.com
EIN 22-3478977

Mr. Aaron C. Krause
Scrub Daddy, Inc.
777 Henderson Blvd., Suite 1-4
Folcroft, PA 19032



February 03, 2014

Hours Amount

PAYABLE ON RECEIPT

INTEREST AT THE RATE OF 1.5% PER MONTH MAY BE CHARGED ON ACCOUNTS THAT ARE OVERDUE

Mr. Aaron C. Krause

Page 2

	Hours	Amount
<u>File 4879-64</u>		
1/27/2014 Research re: Belleza Jewelry Including search through Patent and Trademark Office records and Tennessee state records; LEXIS and Pacer legal search; Review of prior complaint against Debra Cikovic dba Belleza Jewelry; preparation of draft of complaint.	3.50	1,225.00

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P A I D
3-13-14

Mr. Aaron C. Krause
Scrub Daddy, Inc.
777 Henderson Blvd., Suite 1-4
Poltcroft, PA 19032

March 03, 2014

Hours Amount

000-1070-50

SUBTOTAL:

File 4879-64

2/5/2014	Further preparation of complaint including additional causes of action and Telephone conference with attorney in Tennessee.	3.00	1,050.00
2/6/2014	Preparation of exhibits.	1.00	350.00
	Review of forms required to be filed with complaint and Preparation of email to associate with instructions to file.	0.80	280.00
2/26/2014	Exchange of emails with attorney in Tennessee; Telephone conferences with Aaron re: Deal Chicken.	0.50	175.00

PAYABLE ON RECEIPT

INTEREST AT THE RATE OF 1.5% PER MONTH MAY BE CHARGED ON ACCOUNTS THAT ARE OVERDUE

	Hours	Amount
2/27/2014 Preparation of letter to Cikovic re: Smile Daddy and Telephone conference with Aaron re: same.	0.80	280.00
SUBTOTAL:	6.10	2,135.00

Fixed Charges:

<u>File 4879-64</u>	
2/7/2014 FedEx Office - exhibit copies.	6.00
2/10/2014 Court filing fee.	400.00
Retainer to Tennessee attorney.	2,500.00

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PAID
4879

April 01, 2014

Hours Amount

File 4879-64

3/6/2014 Telephone conference with Deb Cikovic.	0.20	70.00
3/14/2014 Review of email from Autumn and Preparation of response.	0.20	70.00
3/17/2014 Exchanges of emails with Autumn; Review of her proposed and final request for entry of default.	0.50	175.00
3/18/2014 Review of email from Autumn.	0.20	70.00
3/20/2014 Telephone conference with Deb Cikovic and exchange of emails with Autumn.	0.60	210.00
SUBTOTAL:	[1.70]	595.00]

For professional services rendered

Previous balance

PAYABLE ON RECEIPT

INTEREST AT THE RATE OF 1.5% PER MONTH MAY BE CHARGED ON ACCOUNTS THAT ARE OVERDUE

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Folcroft, PA 19032

PAID
5/01/14

May 01, 2014

Hours Amount

PAYABLE ON RECEIPT
INTEREST AT THE RATE OF 1.5% PER MONTH MAY BE CHARGED ON ACCOUNTS THAT ARE OVERDUE

Mr. Aaron C. Krause

File 4879-64

4/9/2014 Review of email from Autumn re: default and Preparation of email in response.	0.20	70.00
SUBTOTAL:	[0.20	70.00]

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Mr. Aaron C. Krause
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6 Horne Drive
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P A I D

July 01, 2014

	<u>Hours</u>	<u>Amount</u>
<u>File 4879-64</u>		
6/27/2014 Review of file; legal research re: default judgment in 6th Circuit; Preparation of draft of memorandum.	3.00	1,050.00
6/30/2014 Continued drafting of memorandum and exchange of emails with Autumn.	3.20	1,120.00
SUBTOTAL:	[6.20	2,170.00]

PAYABLE ON RECEIPT
INTEREST AT THE RATE OF 1.5% PER MONTH MAY BE CHARGED ON ACCOUNTS THAT ARE OVERDUE

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Mr. Aaron C. Krause
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Folcroft, PA 19032

August 11, 2014

		<u>Hours</u>	<u>Amount</u>
<u>File 4879-64</u>			
8/11/2014	Review of court opinion; Preparation of Declaration re: attorney's fees; Preparation of proposed injunctive order; exchange of emails with Autumn.	1.50	525.00
SUBTOTAL:		[1.50]	525.00]

PAYABLE ON RECEIPT

INTEREST AT THE RATE OF 1.5% PER MONTH MAY BE CHARGED ON ACCOUNTS THAT ARE OVERDUE